

### REMARKS

The present Amendment is in response to the Examiner's Final Office Action mailed March 13, 2007. No claims are cancelled, amended, or added. Claims 4-15, 22, 23, 26-28, and 30-40 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

#### **I. General Considerations**

Applicants note that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

## **II. Allowed Subject Matter**

The Examiner's allowance of claims 4-10, 22, 23, and 26 is appreciated. Applicants wish to thank the Examiner for the careful review and allowance of those claims.

The Applicants submit the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. Applicant agrees with the Examiner that the claimed invention of claims 4-10, 22, 23, and 26 is patentable over the prior art, but respectfully disagrees with the Examiners statement of reasons for allowance as set forth in Office Action. Applicants submit that it is the claim as a whole, rather than any particular limitation, that makes each of the claims allowable. No single limitation should be construed as the reason for allowance of a claim because it is each of the elements of the claim that makes it allowable. Therefore, Applicants do not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claims allowable and do not make any admission or concession concerning the Examiner's statement in the Office Action.

## **III. Rejection Under 35 U.S.C. §102(b)**

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP")* § 2131.

The Office Action has rejected claims 11-15, 27-28, and 30-40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,019,769 to Levinson ("Levinson"). Applicants respectfully disagree.

Independent claims 11, 27, 28, and 30 each recite in part "wherein the laser diode comprises a vertical cavity surface emitting laser (VCSEL)." In other words, the laser diode as recited in these claims is a VCSEL.

The Office Action, however, has not shown that Levinson teaches or suggests a VCSEL laser diode. For example, the Office Action cites column 1, lines 36-44 of Levinson as teaching or suggesting a VCSEL in rejecting claims 11, 27, 28, and 30. The Applicants, after a careful

reading of this cited section are unable to find any reference to a VCSEL laser diode. The Applicants have reproduced this section for the Examiner's convenience.

Referring to FIG. 2, the optical output power of the laser diode is a non-linear function of the laser diode's drive current. In particular, when forward bias current is applied to a semiconductor laser it begins to emit light in a manner similar to light emitting diodes (LEDs). This type of emission is known as spontaneous emission because it happens randomly from excited atoms in the laser diode's cavity, and is commonly called LED mode.

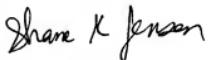
As shown above, there is simply no mention of a VCSEL laser diode in this portion of Levinson. Accordingly, Applicants respectfully submit that the Examiner has not established that Levinson anticipates claims 11, 27, 28, and 30 at least because the Examiner has not established that each and every element as set forth in claims 11, 27, 28, and 30 is found in Levinson, because the Examiner has not established that the identical invention is shown in as complete detail in Levinson as is contained in claims 11, 27, 28, and 30, and because the Examiner has not shown that Levinson discloses that the elements must be arranged as required in claims 11, 27, 28, and 30. Applicants thus submits that the rejection of independent claims 11, 27, 28, and 30, as well as the rejection of corresponding dependent claims 12-15, and 31-40 should be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicant believes that he has addressed every issue raised in the Office Action and has put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 25<sup>th</sup> day of June, 2007.

Respectfully submitted,



ERIC L. MASCHOFF  
Registration No. 36,596  
SHANE K. JENSEN  
Registration No. 55,301  
Attorneys for Applicant  
Customer No. 022913  
Telephone: (801) 533-9800